

**Federal Defenders  
OF NEW YORK, INC.**

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May 15, 2025

**Via ECF**

The Honorable Valerie Figueredo  
United States District Judge  
Southern District of New York  
500 Pearl Street  
New York, NY 10007

**Re. United States v. Pedro Peña  
24 Mag. 3557 (UA)**

Dear Judge Figueredo,

Application Granted



Valerie Figueredo, U.S.M.J.

DATED: 5-20-2025

The application is granted in part and denied in part. The request to remove the curfew from Mr. Pena's release conditions is denied. However, pretrial services is directed to modify Mr. Pena's curfew, which is presently 10pm, so that he can work later each evening.

I write with the consent of Pretrial Services to respectfully request a slight modification of Mr. Peña's pretrial release conditions in the above-captioned matter. Specifically, the defense requests that Mr. Peña's location monitoring condition be changed from a curfew to freestanding GPS. The government opposes this request.

As the Court knows from presiding over Mr. Peña's presentment, Mr. Peña is charged with an immigration offense, violating 18 U.S.C § 1326(a), (b)(2). Mr. Peña's case was brought to the government's attention when Mr. Peña affirmatively applied to regularize his immigration status in this country. Mr. Peña has not been accused of any other unlawful conduct in this case and his prior offense conduct is from more than 23 years ago.

Mr. Peña's release conditions include restrictions on his travel, that he reside at a specified address, and that he be subject to a curfew as set by Pretrial Services and enforced by location monitoring. As confirmed by Pretrial Services (Ex. A), since his release on March 28, 2025, Mr. Peña has been fully compliant with all of his conditions. (This includes his return to the courthouse the Monday after his Friday arrest and release to get his location monitoring equipment.)

Mr. Peña works two jobs as a delivery-person for a supermarket in the Bronx and for food delivery apps, primarily Instacart. While Pretrial Services has set Mr. Peña's curfew at 10:00 p.m., to ensure he is home in time and in compliance with his conditions, Mr. Peña stops working well before his curfew.

So that Mr. Peña may be able to work later and not be preoccupied with his curfew, we request that his location monitoring condition be modified to freestanding GPS. As noted, Mr. Peña has been fully compliant with all his conditions to date. Moreover, neither Pretrial Services nor the defense requested any location monitoring at Mr. Peña's presentment. The defense does

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not believe location monitoring is necessary in this case at all, but seeks only this slight modification at this time.

The government opposes this modification on the grounds that Mr. Peña has only been on Pretrial supervision for six weeks. But we submit that his track record of full compliance during this time should assuage any concerns the Court might have, particularly because the defense is only seeking a modification to freestanding GPS. As such, Mr. Peña would still be subject to 24/7 location monitoring by Pretrial Services. We believe this condition, along with the others imposed by the Court, is much more than “least restrictive” combination of conditions necessary to reasonably assure Mr. Peña’s appearance in court and the safety of the community. *See* 18 U.S.C. § 3142(c)(1)(B).

Accordingly, we respectfully request that the Court remove Mr. Peña’s curfew condition and modify his release conditions to include location monitoring by freestanding GPS. We thank the Court for its consideration of this request.

Respectfully submitted,

/s/

Neil P. Kelly  
Assistant Federal Defender  
(212) 417-8744

cc: Counsel of record

## **Exhibit A**

**Subject:** RE: Pedro Pena

**Date:** Tuesday, May 13, 2025 at 2:09:46 PM Eastern Daylight Time

**From:** Ashley Cosme

**To:** Neil Kelly

**CC:** Madalyn Toledo (USC)

Hi Neil,

We have no objection based on his compliance. We also did not recommend a curfew at the time of the initial appearance, so I just want to make note of that as well.

Please let me know if you intend to petition the court.

Thanks,

Ashley L. Cosme  
Intensive Supervision Specialist  
U.S. Pretrial Services Office  
Southern District of New York  
O: (212) 805-4319  
C: (347) 219-9642

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**From:** Neil Kelly <Neil\_Kelly@fd.org>

**Sent:** Tuesday, May 13, 2025 12:18 PM

**To:** Ashley Cosme <Ashley\_Cosme@nyspt.uscourts.gov>

**Subject:** Pedro Pena

Good afternoon,

I'm writing with respect to Mr. Pedro Pena. He is currently on a curfew, but would like to extend his hours to work more. Would PTS oppose changing his location monitoring to standalone GPS without a curfew so that he can work more frequently?

I'd be happy to discuss by phone as well if you have any questions.

Thanks so much.

Neil P. Kelly | Assistant Federal Defender

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